

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

JASON C KINARD
1756 HOWARD AVE
WATERLOO IA 50702

EXPRESS SERVICES INC
PO BOX 720660
OKLAHOMA CITY OK 73172

Appeal Number: 05A-UI-00245-DWT
OC: 12/05/04 R: 03
Claimant: Respondent (1/R)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2 - Employment Separation
871 IAC 24.1(113) - Layoff

STATEMENT OF THE CASE:

Express Services, Inc. (employer) appealed a representative's December 30, 2004 decision (reference 01) that concluded Jason C. Kinard (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant's separation was for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 24, 2005. The claimant responded to the hearing notice, but was not available for the hearing when he was called. The claimant did not contact the Appeals Section again even though a message was left for him on his answering machine at the time of the hearing. Lisa Franzmeier, a staffing consultant, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant become unemployed as of November 30, 2004, for nondisqualifying reasons?

FINDINGS OF FACT:

The employer is a temporary employment agency. The claimant registered to work for the employer's clients. The employer assigned the claimant to a job on September 20, 2004. The client did not want the claimant to continue this job assignment after November 30 because of attendance problems. The employer told the claimant this job assignment was over. The employer did not have another job to assign to the claimant in early December. The claimant contacted the employer again on December 15, but the employer still did not have any job to assign to the claimant.

On January 4, 2005, the employer assigned the claimant to another job. This job ended on January 18, 2005, when the employer discharged the claimant for attendance issues.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §96.5-1, 2-a. On November 30, 2004, the employer effectively laid off the claimant because a client no longer wanted the claimant on a job and the employer did not have another job to assign to the claimant. The employer did not discharge the claimant on November 30, 2004. The evidence establishes the claimant did not quit or commit work-connected misconduct in connection with the November 30, 2004 employment separation. As of December 5, 2004, the claimant is qualified to receive unemployment insurance benefits.

The employer is not one of the claimant's base period employers. During the claimant's current benefit year, the employer's account will not be charged.

The employer assigned the claimant to another job on January 4, 2005. Since the employer discharged the claimant on January 18, 2005, this separation is remanded to the Claims Section to investigate and issue a written decision.

DECISION:

The representative's December 30, 2004 decision (reference 01) is affirmed. The claimant did not voluntarily quit or commit work-connected misconduct in connection with the November 30, 2004 employment separation. As of December 5, 2004, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account will not be charged during the claimant's current benefit year. The employer discharged the claimant on January 18, 2005. The reason for the January 18, 2005 separation is remanded to the Claims Section to investigate and issue a written decision to the parties.

dlw/pjs